



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TE/GE EO EXAMINATIONS
1100 COMMERCE ST. MAIL STOP 4920 DAL
DALLAS, TEXAS 75242

501.03-00

Date: January 25, 2011

Number: **201116033**
Release Date: 4/22/2011

LEGEND

ORG = Organization name

XX = Date Address = address

Taxpayer Identification Number:
Person to Contact
Employee Identification Number:

Employee Telephone Numbers:
(Phone)
(Fax)

CERTIFIED MAIL

Dear :

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated August 30, 20XX is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reasons:

You have failed to produce documents to establish that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3), and that no part of your net earnings inure to the benefit of private shareholders or individuals. Section 1.6033-2(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

Contributions to your organization are no longer deductible.

You are required to file income tax returns on Form 1120. If you have not already filed these returns and the examiner has not provided you instructions for converting your previously filed Forms 990 to Forms 1120, you should file these income tax returns with the appropriate Service Center for the tax year ending December 31, 20XX, and for all tax years thereafter in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: United States Tax Court, the United States Court of Federal Claims, or the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed before the 91st day after the date this determination was mailed to you if you wish to seek review of our determination. Please contact the clerk of the respective court for rules and the appropriate forms regarding filing petitions for declaratory judgment by referring to the enclosed Publication 892. Please note that the United States Tax Court is the only one of these courts where a declaratory judgment action can be pursued without the services of a lawyer. You may write to the courts at the following addresses:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Nanette M. Downing
Director, EO Examinations

Enclosures:

Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*
Form 6018, *Consent to Proposed Action - Section 7428*
Return envelope

Internal Revenue Service

Department of the Treasury
9350 E Flair Drive 2nd FL
EL Monte, CA 91731

Date: June 7, 2010

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No.
Name of Taxpayer ORG		Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date Address = address City = city
State = state County = county Country = country President =
president DIR-1 = 1st DIR Agent = agent CO-1 & CO-2 = 1st & 2nd
COMPANIES

Issue:

Should the exempt status of **ORG** be revoked for failure to abide by the recordkeeping requirements under Internal Revenue Code (IRC) section 6001 and 6033?

Facts:

The organization is named **ORG** and received its exempt status under IRC section 501(c) (3). The determination letter 1045 was issued to the exempt organization (EO) on August 30, 20XX. The effective date of exemption is November 17, 20XX. According to the Bylaws filed with Form 1023, the principle office of the corporation for the transaction of its business is located in County, State. The organization stated in the Form 1023 application for exemption that it would operate a school for nature education with a curricula of one or two days of instruction on site for public school children, through high school, with a certificate of completion. Classes would be taught by persons experienced in nature education. The price for attendance will be form of reasonable tuition above cost. It also stated that the school would publish, in-house, appropriate grade sensitive, copyrighted education material, for sale to the general public, at a reasonable price above cost. The delivery of nature education will initially constitute approximately 90% of school's operational activities. The publishing will be approximately 10 % of school's initial operational activities. The Attachment 1 to Form 1023 – Narrative Description of Activities is enclosed.

1. The return tax year end for the exempt organization is December 31st.
2. On its Form 990 return the EO claims to raise funds to support a non-profit school in Country, between 1,000-8,000 students benefited. According to the letter dated 10/26/20XX by President (attached), EO collects and forwards funding for two foreign non-profit organizations - CO-1, and CO-2 asís, both have been Country non-profits organizations since 19XX, providing environmental education to poor children and sanctuary for domestic and wild animals in Country;
3. We also reviewed the information returns for 20XX and 20XX, they appear to have the same pattern as the 20XX return. No apparent charitable activities reported on the return and the total revenue was reduced to zero by salary and Occupancies expenses. There are no records of EO filing W-2, Form-941, Form 940 or Form 1099 in any of the years.

TABLE DELETED

4. On 10/5/20XX, initial contact letter with Information Document Request 1 (IDR-1), Publ, Notice 609 was sent to EO at address on its return, this letter requested an

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No.
Name of Taxpayer ORG		Year/Period Ended 20XX12

appointment for the audit of its 20XX12 Form 990EZ return. No response was received from the EO.

5. On 10/15/20XX, the agent called EO, President answered the call and stated that he is the contact person of the organization. President stated, "stop playing games and just tell me what you need and I will provide it to you if I can." He also stated that DIR-1 the EO's officer listed on the return is his wife and resides outside the country. The agent asked if EO had received the initial appointment request letter and IDR-1, he replied that a bunch of correspondence had been received from the IRS State office and that he didn't know which letter the agent was referring to. He asked for another copy to be sent to him. The agent advised him to fax a copy of F-2848 to represent the EO for the audit. He replied that he had already filed it with State office. The agent checked the transcripts and found no records of this power of attorney. President is not listed as an officer on EO's 20XX12 return and there is no indication on EO's 20XX12 return that he has been given the power of attorney to represent EO on it Form 990 returns. The agent advised him that another copy of the letter with IDR will be sent to the EO's address since he has no power of attorney from the organization.
6. On 10/15/20XX, Agent sent Letter 3613 with IDR-1 and Pub 1 to EO. This letter scheduled an appointment at the EO's address on 11/2/XX and 11/3/XX at 10:00am.
7. On 11/2/20XX, agents Agent and Agent went to the organization's address. No one answered the door. An elderly man could be seen walking inside the house from outside the property. He could not be identified as President and he chose not to answer the door. The property appeared to be a private home located in a residential area and there were no signs or indications that it was where the organization operated.
8. On 11/3/20XX, a letter received from President (attached) stated that he was in Country and was not available for a meeting at the proposed time and dates. He also stated that all records were kept in Country for security purposes. The letter requested that correspondence be sent to him via a private mail forwarder's address in City, State (Address, City, State – Address, City, State). The agent sent a letter on 11/3/20XX with Form 2848 requesting the Power of Attorney from the organization to both the EO address on return and to the address in City, State. No responses from either the organization or President were received.
9. On 2/16/20XX, agent sent EO a copy of letter with IDR-1 via certified mail and summarized the actions that had been taken and the requirement to provide documents to prove that EO continues to qualify for exempt status. It also summarized the possible consequence of revocation if EO failed to respond to the letter this time. The letter requested EO to call back by 2/26/20XX. According to USPS mail tracking webpage, the

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No.
Name of Taxpayer ORG		Year/Period Ended 20XX12

letter was delivered successfully on 2/23/20XX at 11:10am. No response has been received from EO as of the date of the Revenue Agent Report.

10. On 5/10/20XX, agent sent EO a copy of letter with Form 886A- Explanation of Items via certified mail and summarized the actions that had been taken and the requirement to provide documents to prove that EO continues to qualify for exempt status. It also summarized the possible consequence of revocation if EO failed to respond to the letter this time. The letter requested EO to reply by 5/26/20XX. According to USPS mail tracking webpage, the letter arrived at the local post office on 5/12/20XX. No response has been received from EO as of 6/3/20XX.

Law:

Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1(h) (2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it,

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No.
Name of Taxpayer ORG		Year/Period Ended 20XX12

may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Taxpayers Position:

The taxpayer has not provided a position to this proposed action and, with this notification, will be provided the opportunity to respond.

Government's Position:

Given the EO's failure to respond to the agent's repeated requests and its failure to properly maintain records as required by the IRC501(c)(3) to establish that it is observing the conditions for continuation of its exempt status, the exempt status of the EO should be revoked effective January 1, 20XX.